

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MAILLIARD KING, No. C-06-934 TEH (PR)

Petitioner, ORDER DENYING CERTIFICATE OF
APPEALABILITY

v.

D. K. SISTO, Warden, (Doc. #36)
Respondent.

Pro se Petitioner Malliard King has filed a Notice of Appeal, Doc. #36, which the Court also construes as an application for a Certificate of Appealability under 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b) (amended Dec. 1, 2009). Petitioner is appealing this Court's Order granting Respondent's Motion to Dismiss the Petition filed under 28 U.S.C. § 2254 on the ground that it was untimely under 28 U.S.C. § 2244(d). See Doc. #34.

Petitioner's request for a Certificate of Appealability is DENIED because he has not demonstrated that "jurists of reason would find it debatable whether the petition states a valid claim of the

1 denial of a constitutional right and that jurists of reason would
2 find it debatable whether the district court was correct in its
3 procedural ruling." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

4 The Clerk shall forward to the Court of Appeals the case
5 file with this Order. See F. R. App. P. 22(b)(1) (amended Dec. 1,
6 2009); United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

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8 IT IS SO ORDERED.
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10 DATED 12/21/09



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12 THELTON E. HENDERSON
13 United States District Judge
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